

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**JANICE TURNER, INDIVIDUALLY,  
AND AS GUARDIAN OF EBONIE  
KING**

**Plaintiffs**

**v.**

**HOUSTON INDEPENDENT SCHOOL  
DISTRICT**

**Defendants**

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**CIVIL ACTION NO. \_\_\_\_\_**

**JUDGE \_\_\_\_\_**

**JURY DEMANDED**

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**CAUSE NO. 2013-03239**

**JANICE TURNER, INDIVIDUALLY  
AND AS GURADIAN OF EBONIE  
KING**

**v.**

**HOUSTON INDEPENDENT SCHOOL  
DISTRICT**

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**IN THE DISTRICT COURT**

**HARRIS COUNTY, TEXAS**

**113<sup>th</sup> JUDICIAL DISTRICT**

**DEFENDANT HOUSTON INDEPENDENT SCHOOL DISTRICT'S  
PETITION FOR REMOVAL**

**TO THE UNITED STATES DISTRICT COURT:**

This is a Petition for Removal of this action from the 113th Judicial District Court of the State of Texas, Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division, pursuant to 28 U.S.C. §1441.

**STATE PROCEEDINGS:**

1. The petitioner, The Houston Independent School District, is a Defendant in the Civil Action brought against it in the 113th Judicial District Court of the State of Texas, Harris

County, Texas, entitled, Janice Turner, Individually, and As Guardian of Ebonie King, Plaintiffs.

A copy of the Second Amended Original Petition asserting a federal question is attached hereto.

**REMOVAL TIMELINE AND JURISDICTION:**

2. This action was commenced by the filing of an Original Petition on or about January 17, 2013 and concomitant service upon the Defendant on or about January 29, 2013, with a Second Amended Original Petition claiming “. . . Defendant HISD negligently failed to properly supervise and monitor the conduct of students traveling on the bus with Ebonie King, knowing that Plaintiff Ebonie King was incapable of protecting herself due to her physical and mental disabilities. Defendant HISD acted discriminatorily against Ebonie King when they failed to provide a safe environment for transportation to school for the Plaintiff and took step to hide said failure” (¶ 47, Second Amended Original Petition) filed on or about March 13, 2013 and served on Defendant, consistent with TRCP 21a, on or about March 15, 2013.

3. The controversy herein between the Plaintiffs and the Petitioner is a controversy involving a federal question (“The described acts and omissions of Defendant HISD deprived the Plaintiff of Equal protection of the law...in particular Plaintiff’s right to be free from oppression, intimidation, discrimination and her right to Due Process...” ¶ 48, Second Amended Original Petition); (“The described oppressive and arbitrary acts and failures to act of defendant HISD were committed under the color of law, all of which deprived the Plaintiff of her rights, privileges and immunities guaranteed to Plaintiff as a citizen of the United States and of Texas and deprived the Plaintiff of her rights guaranteed under the First and 14th Amendments of the United States Constitution . . . ¶ 49, Second Amended Original Petition); (“The ADA, 42 U.S.C.A. §12132 [ADA §202] prohibits public entities, such as the school districts, from discriminating against a qualified individual with a disability in the provision of services

*programs, or activities. In addition, §12132 [ADA §202] prevents a public entity from excluding a person with a disability from participation in or receipt of the benefit of its services, programs or activities” ¶54, Second Amended Original Petition); “Despite Plaintiff’s request for an aide to accompany her and supervise her safe transportation to and from school, the aide designated for such pursuits failed to ensure the Plaintiff’s safety and denied Plaintiff the Supervision she should have been statutorily afforded based on her disability. Accordingly, the Defendant HISD has discriminated against Plaintiff, by denying her the benefits of safe transportation to school. This discrimination and denial of benefits is solely attributable to Plaintiff’s disability. By failing to provide the requested accommodations, HISD has violated 42 U.S.C.A. §12132 [ADA §202]” ¶55, Second Amended Original Petition); and (“Plaintiff Ebonie King has cerebral palsy. Cerebral Palsy is an actual and perceived physical disability within the meaning of §504 29 U.S.C.A. §794” ¶62, Second Amended Original Petition).*

4. This is a civil action brought in a State Court of which the United States District Courts have original jurisdiction because of federal question, pursuant to **28 U.S.C. §1331; 42 U.S.C. §1983; 42 U.S.C. §12132; §504 Rehabilitation Act; and 29 U.S.C. §794.**

5. At the time of the service of said Second Amended Original Petition, Petitioner for Removal was (and is) an independent school district existing under and by virtue of the laws of the State of Texas with its principal place of business in Harris County, Texas. At the time of the service of the said Second Amended Original Petition, the Plaintiffs were (and now are) citizens of Harris County in the State of Texas.

## **NOTICE**

6. Plaintiffs have been notified of intent by this Defendant to remove this cause by Defendant’s filing of a copy of this pleading and a Notice of its filing in the 113th Judicial


District Court of Harris County, Texas.

7. This removal petition was filed with this Court within thirty (30) days after receipt by Petitioner of the Second Amended Original Petition, which was received on March 15, 2013.

WHEREFORE, the Petition for Removal prays that this cause proceed in this Court as an action properly removed thereto.

Respectfully submitted,

**CALLIER & GARZA, L.L.P.**

  
\_\_\_\_\_  
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TBN – 03663500  
SDT: 5447  
4900 Woodway, Suite 700  
Houston, Texas 77056  
Telephone: (713) 439-0248  
Facsimile: (713) 439-1908

Attorney for Defendant  
**HOUSTON INDEPENDENT SCHOOL  
DISTRICT**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been served upon all counsel of record by certified mail/return receipt requested on the 27 day of March, 2013.

  
\_\_\_\_\_  
Joseph Alan Callier

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
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**JANICE TURNER, INDIVIDUALLY,  
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**IN THE DISTRICT COURT**

**HARRIS COUNTY, TEXAS**

**113<sup>th</sup> JUDICIAL DISTRICT**

**INDEX OF REMOVAL PETITION DOCUMENTS BEING FILED**

1. All executed process in the case (Exhibit "A");
2. Pleadings asserting causes of action (Original Petition with Civil Case Information Sheet, Defendant Houston Independent School District's Original Answer to Plaintiffs' Original Petition, Defendant Houston Independent School District's Special Exceptions to Plaintiffs' Original Petition, Notice of Submission (Special Exceptions), Plaintiffs' First Amended Petition, Plaintiffs' Response to Defendant's Special Exceptions, Plaintiffs' Request for Oral Hearing on Defendant's Special Exception, Notice of Hearing (Oral Hearing on Special Exceptions), Plaintiffs' Second Amended Petition - (Exhibit "B"))
3. Docket Sheet; (Exhibit "C")
5. A list of all counsel of record, including addresses, telephone numbers and parties represented. (Exhibit "D")

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IN THE DISTRICT COURT

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113<sup>th</sup> JUDICIAL DISTRICT

**DEFENDANT HOUSTON INDEPENDENT SCHOOL DISTRICT'S  
CERTIFICATE OF SERVICE IN CONNECTION WITH REMOVAL PAPERS**

This is to certify that on 3-27-13, a true and correct copy of  
the following were transmitted by way of Certified Mail Return Receipt Requested to counsel for  
Plaintiffs who appeared in this lawsuit as of the date of the removal:

Brennen Dunn  
Citizen Legal, PLLC  
2306 Blodgett Street  
Houston, Texas 77004  
Telephone: 832-377-5783  
Facsimile: 888-715-2492

Respectfully submitted,

**CALLIER & GARZA, L.L.P.**



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Facsimile: (713) 439-1908

Attorney for Defendant

**HOUSTON INDEPENDENT SCHOOL  
DISTRICT**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been served upon all counsel of record by certified mail/return receipt requested on the 27 day of March, 2013.



Joseph Alan Callier